



STATE OF MICHIGAN

SUPREME COURT

143914(10)

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee

V

ROBERT WINBURN
Defendant-Appellant

SC: 143914
COA: 303223
Wayne CC: 91-007478-FC

STATEMENT BY MARKMAN, J., DENYING MOTION FOR DISQUALIFICATION

November 7, 2011

MARKMAN, J. Defendant has brought a motion pursuant to MCR 2.003, which is entitled a “Motion to Offer Justice Stephen J. Markman an Opportunity to Disqualify Himself From Presiding Over This Action.” In his prayer for relief, defendant states that he “would not object” if I disqualify myself. Treating this as a motion for disqualification and assuming that it is, in fact, defendant’s intention to obtain my recusal, I deny the motion. Defendant alleges that the instant appeal pertaining to his conviction for a 1990 murder involves overlapping facts with a federal investigation by the Bureau of Alcohol, Tobacco, and Firearms of narcotics trafficking in which defendant was alleged by the Bureau to have been involved. It is further alleged that I reviewed this investigation as the former United States Attorney and ultimately declined to pursue charges in 1992. However, defendant has established no connection between the facts of the 1990 murder that are currently in dispute and the circumstances of the federal drug investigation in 1992, except that defendant was involved in both matters. Thus, the crux of defendant’s argument is simply that I participated in a decision (not to prosecute defendant) nearly two decades ago, and that I am now participating in another decision concerning a different crime in which defendant was allegedly also involved. This is not a circumstance, in my judgment, that requires judicial disqualification. Furthermore, I have no actual bias against defendant, and there are no other grounds that exist in support of my disqualification.